

(i) For all service band indices other than those listed in subparagraphs (ii) and (iii) of this paragraph, untargeted exogenous cost adjustments shall be reflected pursuant to the following formula:

$$SBI_{ul} = SBI_{ul(t-1)} * \left( 1 + \frac{T + \frac{Rsvc_{t-1} * U_{bkt}}{Rbkt_{t-1}}}{Rsvc_{t-1}} \right)$$

where  $SBI_{ul}$  = the new SBI upper limit;  
 $SBI_{ul(t-1)}$  = the immediately preceding SBI upper limit;  
 $T$  = the targeted exogenous cost adjustment;  
 $Rsvc_{t-1}$  = R for the service category, where R is calculated by multiplying base period quantities for each rate element in the service category by the price for that rate element at the time the PCI was updated to  $PCI_{t-1}$ , and summing the results,  
 $Rbkt_{t-1}$  = R for the basket, where R is calculated by multiplying base period quantities for each rate element in the basket by the base period price for that rate element at the time the PCI was updated to  $PCI_{t-1}$ , and summing the results,  
 $U_{bkt}$  = the untargeted exogenous cost reduction to be associated with the basket.

(ii) For the service band subindices for DS1 and DS3 services defined in Sections 61.42(e)(2)(iii)(A) and (B), the 800 data base vertical features subindex required by Section 61.47(g)(4), and the density pricing zones for voice grade services and tandem-switched transport permitted by Sections 61.47(h)(1)(iii) and (iv), untargeted exogenous cost adjustments shall be reflected pursuant to the following formula:

$$SBI_{ul} = SBI_{ul(t-1)} * \left( 1 + \frac{T + \left( \frac{Rsubsvc_{t-1} * U_{bkt}}{Rbkt_{t-1}} \right) + \left( \frac{Rsubsvc_{t-1} * U_{svc}}{Rsvc_{t-1}} \right)}{Rsubsvc_{t-1}} \right)$$

where  $Rsubsvc_{t-1}$  = R for the service subcategory, where R is calculated by multiplying base period quantities for each rate element in the service subcategory by the base period price for that rate element at the time the PCI was updated to  $PCI_{t-1}$ , and summing the results, and  
 $U_{svc}$  = the untargeted exogenous cost reduction to be associated with the service category.

(iii) For the density pricing zones for DS1 and DS3 services permitted by Sections 61.47(h)(1)(i) and (ii), untargeted exogenous cost adjustments shall be reflected pursuant to the following formula:

$$SBI_{ul} = SBI_{ul(t-1)} * (1 + \frac{T * (\frac{Rsubsvc_{t-1}}{Rbskt_{t-1}} * U_{bskt}) + (\frac{Rsubsvc_{t-1}}{Rsvc_{t-1}} * U_{svc}) + (\frac{Rdz_{t-1}}{Rsubsvc_{t-1}} * U_{subsvc})}{Rdz_{t-1}})$$

where  $Rdz_{t-1}$  = R for the density pricing zone, where R is calculated by multiplying base period quantities for each rate element in the zone by the base period price for that rate element at the time the PCI was updated to  $PCI_{t-1}$ , and summing the results, and

$U_{subsvc}$  = the untargeted exogenous cost reduction to be associated with the service subcategory.

50. Revise Section 61.48 to remove and reserve paragraphs (a) through (h), and paragraph (i)(3)(ii).

51. Revise Section 61.49(a) to read as follows:

**§ 61.49 Supporting information to be submitted with letters of transmittal for tariffs of carriers subject to price cap regulation.**

(a) Each price cap tariff filing must be accompanied by supporting materials sufficient to calculate required adjustments to each PCI, API, and SBI pursuant to the methodologies provided in §§ 61.45, 61.46, and 61.47, as applicable.

52. Revise Section 61.49(c) to read as follows:

**§ 61.49 Supporting information to be submitted with letters of transmittal for tariffs of carriers subject to price cap regulation.**

\* \* \*

(c) Each price cap tariff filing that proposes rates above the applicable band limits established in §§ 61.47 (e), (g) and (h) must be accompanied by supporting materials establishing substantial cause for the proposed rates.

53. Remove and reserve Sections 61.49(f)(1) and 61.49(i).
54. Revise Section 61.49(g)(2)(i) by replacing the phrase "Chief, Tariff Review Branch" with the phrase "Chief, Tariff and Pricing Analysis Branch".
55. Amend Section 61.49 by adding paragraph (l) as follows:

**§ 61.49 Supporting information to be submitted with letters of transmittal for tariffs of carriers subject to price cap regulation.**

\* \* \*

(l) Above the bottom margin of each page of cost support material submitted pursuant to this section, the carrier shall indicate the transmittal number under which that page was submitted.

56. Delete Section 61.50.
57. Delete Section 61.51.
58. Redesignate Section 61.53 as Section 61.83.
59. Revise Section 61.54(b)(3) to read as follows:

**§ 61.54 Composition of Tariffs.**

\* \* \*

(b) \* \* \*

(3) *Expiration Date.* Subject to Section 61.59, when the entire tariff or supplement is to expire with a fixed date, the expiration date must be shown in connection with the effective date in the following manner. Changes in expiration date must be made pursuant to the notice requirements of Section 61.58, unless otherwise authorized by the Commission.

Expires at the end of \_\_\_\_\_ (date) unless sooner canceled, changed, or extended.

60. Redesignate Section 61.54(c)(1) as Section 61.54(c)(1)(i), and adopt new Section 61.54(c)(1)(ii) as follows:

**§ 61.54 Composition of Tariffs.**

\* \* \*

(c)(1)(ii) Alternatively, the carrier is permitted to number its tariff pages, other than the check sheet, to reflect the section number of the tariff as well as the page. For example, under this system, pages in section 1 of the tariff would be numbered 1-1, 1-2, *etc.*, and pages in section 2 of the tariff would be numbered 2-1, 2-2, *etc.* Issuing carriers shall utilize only one page numbering system throughout its tariff.

61. Redesignate Section 61.54(c)(3) as Section 61.54(c)(3)(i), and adopt new Section 61.54(c)(3)(ii) as follows:

**§ 61.54 Composition of Tariffs.**

\* \* \*

(c) \* \* \*

(c)(3)(ii) Above the bottom margin of each page, the carrier shall indicate the transmittal number under which that page was submitted.

62. Redesignate Section 61.55 as Section 61.85.

63. Redesignate Section 61.56 as Section 61.86, and revise by deleting last period and inserting the following language:

, or to issue a supplement for purposes of deferring the effective date of pending tariff revisions.

64. Redesignate Section 61.57 as Section 61.87, and revise to read as follows:

**§ 61.87 Cancellation of Tariffs.**

(a) A carrier may cancel an entire tariff. Cancellation of a tariff automatically cancels every page and supplement to that tariff except for the canceling Title Page or first page.

(1) If the existing service(s) will be provided under another carrier's tariff, then

(i) the carrier whose tariff is being canceled must revise the Title Page or the first page of its tariff indicating that the tariff is no longer effective, or

(ii) the carrier under whose tariff the service(s) will be provided must revise the Title Page or first page of the tariff to be canceled, using the name and numbering shown in the heading of the tariff to be canceled, indicating that the tariff is no longer effective. This carrier must also file with the Commission the new tariff provisions reflecting the service(s) being canceled. Both filings must be effective on the same date and may be filed under the same transmittal.

(2) If a carrier canceling its tariff intends to cease to provide existing service, then it must revise the Title Page or first page of its tariff indicating that the tariff is no longer effective.

(3) A carrier canceling its tariff, as described above, must comply with Section 61.22 or Sections 61.54(b)(1) and 61.54(b)(5), as applicable.

(b) When a carrier cancels a tariff as described above, the canceling Title Page or the first page of the canceled tariff must show where all rates and regulations will be found except for (c) below. The Title Page or first page of the new tariff must indicate the name of the carrier and tariff number where the canceled material had been found.

(c) When a carrier ceases to provide service(s) without a successor, it must cancel its tariff pursuant to the notice requirements of Sections 61.23 or 61.58, as applicable, unless otherwise authorized by the Commission.

65. Redesignate Section 61.58(a)(2) as Section 61.58(a)(2)(iii), and adopt new Sections 61.58(a)(2)(i) and (ii) to read as follows:

**§ 61.58 Notice Requirements.**

(a) \* \* \*

(2) \* \* \*

(i) Local exchange carriers may file tariffs pursuant to Section 204(a)(3) of the Communications Act. Such a tariff may be filed on 7 days' notice if it proposes only rate decreases. Any other tariff filed pursuant to Section 204(a)(3) of the Communications Act, including those that propose a rate increase or any change in terms and conditions, shall be filed on 15 days' notice. Any tariff filing made pursuant to Section 204(a)(3) of the Communications Act must comply with the applicable cost support requirements specified in this Part.

(ii) Local exchange carriers may elect not to file tariffs pursuant to Section 204(a)(3) of the Communications Act. Any such tariffs shall be filed in accordance with the notice requirements specified elsewhere in this section.

66. Revise Section 61.58(a)(3) as follows:

**§ 61.58 Notice Requirements.**

(a) \* \* \*

(3) Tariff filings proposing corrections or voluntarily deferring the effective date of a pending tariff revision must be made on at least 3 days' notice, and may be filed notwithstanding the provisions of Section 61.59. Corrections to tariff materials not yet effective cannot take effect before the effective

date of the original material. Deferrals must take effect on or before the current effective date of the pending tariff revisions being deferred.

- 67. Remove and reserve Section 61.58(b).
- 68. Revise Section 61.58(c)(1) to remove the first sentence.
- 69. Remove and reserve Section 61.58(c)(4).
- 70. Revise Section 61.58(c)(5) to read as follows:

**§ 61.58 Notice Requirements.**

\* \* \*

(c) \* \* \*

(5) Tariff filings involving a change in rate structure of a service included in a basket listed in § 61.42(d), or the introduction of a new service within the scope of § 61.42(g), must be made on at least 45 days' notice.

- 71. Remove and reserve Section 61.58(c)(6).
- 72. Revise Section 61.58(c)(7) to read as follows:

**§ 61.58 Notice Requirements.**

\* \* \*

(c) \* \* \*

(7) The required notice for tariff filings involving services included in Section 61.42(f), or tariff filings involving changes in tariff regulations, shall be that required in connection with such filings by dominant carriers that are not subject to price cap regulation.

- 73. Amend Section 61.58(c) by adding new Section 61.58(c)(8) to read as follows:

**§ 61.58 Notice Requirements.**

\* \* \*

(c) \* \* \*

(8) Carriers electing price cap regulation under § 61.41(a)(3) of this part in a year after 1991 shall file cost support for its initial price cap tariffs pursuant to Section 61.49(k) of this Chapter at least 90 days prior to July 1, and shall file its initial price cap tariff to be effective on July 1 of the year of election. Each PCI, API, and SBI shall be assigned an initial value prior to adjustment of 100, corresponding to the costs and rates in effect as of January 1 of the year of election.

74. Remove and reserve Section 61.58(d).

75. Revise the caption for Section 61.58(e), redesignate Section 61.58(e)(3) and Section 61.58(e)(4), and add new Section 61.58(e)(3) to read as follows:

**§ 61.58 Notice Requirements.**

\* \* \*

*(e) Non-Price Cap Carriers and/or Services.*

\* \* \*

(3) Alascom, Inc. shall file its annual tariff revisions for its Common Carrier Services (Alascom Tariff F.C.C No. 11) on at least 90 days' notice.

76. Remove Section 61.58(f).

77. Redesignate Section 61.59 as 61.59(a), revise, and add new Sections 61.59(b) and (c) to read as follows:

**§ 61.59 Effective period required before changes.**

(a) Except as provided in § 61.58(a)(3) or except as otherwise authorized by the Commission, new rates or regulations must be effective for at least 30 days before a dominant carrier will be permitted to make any change.

(b) Changes to rates and regulations that have not yet become effective, *i.e.*, are pending, may not be made unless the effective date of the proposed changes is at least 30 days after the scheduled effective date of the pending revisions.

(c) Changes to rates and regulations that have taken effect but have not been in effect for at least 30 days may not be made unless the scheduled effective date of the proposed changes is at least 30 days after the effective date of the existing regulations.

78. Insert after Section 61.59, "**Subpart F - Specific Rules for Tariff Publications of Dominant and Nondominant Carriers**".

79. Insert new Section 61.66 as follows:

**§ 61.66 Scope.**

The rules in this subpart apply to all carriers, unless otherwise noted.

80. Remove Section 61.67.

81. Revise Section 61.69 to read as follows:

**§ 61.69 Rejection.**

When a tariff publication is rejected by the Commission, its number may not be used again. This includes, but is not limited to, such publications as tariff numbers or specific page revision numbers. The rejected tariff publication may not be referred to as either cancelled or revised. Within five business days of the release date of the Commission's Order rejecting such tariff publication, the issuing carrier shall file tariff revisions removing the rejected material, unless the Commission's Order establishes a different date for this filing. The publication that is subsequently issued in lieu of the rejected tariff publication must bear the notation

In lieu of ---, rejected by the Federal Communications Commission.

82. Revise Section 61.72 to read as follows:

**§ 61.72 Public Information Requirements.**

(a) Issuing carriers must make available accurate and timely information pertaining to rates and regulations subject to tariff filing requirements.

(b) Issuing carriers must, at a minimum, provide a telephone number for public inquiries about information contained in its tariffs. This telephone number should be made readily available to all interested parties.

83. Amend Section 61.74 as follows:

**§ 61.74 References to other instruments.**

\* \* \*

(e) Tariffs may reference other F.C.C. tariffs that are in effect and on file with the Commission for purposes of determining mileage, or specifying the operating centers at which a specific service is available.

(f) Tariffs may reference technical publications which describe the engineering, specifications, or other technical aspects of a service offering, provided the following conditions are satisfied:

(i) The tariff must contain a general description of the service offering, including basic parameters and structural elements of the offering;

(ii) The technical publication includes no rates, regulatory terms, or conditions which are required to be contained in the tariff, and any revisions to the technical publication do not affect rates, regulatory terms, or conditions included in the tariff, and do not change the basic nature of the offering;

(iii) The tariff indicates where the technical publication can be obtained;

(iv) The referenced technical publication is publicly available before the tariff is scheduled to take effect; and

(v) The issuing carrier regularly revises its tariff to refer to the current edition of the referenced technical publication.

84. Insert new Section 61.77.

**§ 61.77 Combined domestic and international tariffs prohibited.**

No tariff publication filed with the Commission may include rates, terms, or conditions for both domestic and international services.

85. Revise the heading before Section 61.131 to read as follows: **"Subpart G - Concurrences"**.

86. Amend Section 61.132 by adding the following language at the end:

Nondominant issuing carriers shall file revisions reflecting concurrences in their tariffs on the notice period specified in Section 61.23 of this Part. Dominant issuing carriers shall file concurrences in their tariffs on the notice periods specified in Section 61.58(a)(2) or Section 61.58(e)(1)(iii) of this Part.

87. Revise the heading before Section 61.151 to read as follows: **"Subpart H - Applications for Special Permission"**.

88. Revise Section 61.153(b) to read as follows:

**§ 61.153 Method of filing applications.**

\* \* \*

(b) In addition, except for issuing carriers filing tariffing fees electronically, for all special permission applications requiring fees as set forth in part 1, subpart G of this chapter, the issuing carrier must submit the original of the application letter (without attachments), FCC Form 159, and the appropriate fee to the Mellon Bank, Pittsburgh, PA at the address set forth in § 1.1105 of this chapter. Issuing carriers submitting tariff fees electronically should submit the Form 159 and the original cover letter to the Secretary of the Commission in lieu of the Mellon Bank. The Form 159 should display the Electronic Audit Code in the box in the upper left hand corner marked "reserved." Issuing carriers should submit these fee materials on the same date as the submission in paragraph (a) of this section.

89. Revise Section 61.153(c) by replacing the phrase "Chief, Tariff Review Branch" with the phrase "Chief, Tariff and Pricing Analysis Branch".
90. Revise the heading before Section 61.171 to read as follows: **"Subpart I - Adoption of Tariffs and Other Documents of Predecessor Carriers"**.
91. Revise the heading before Section 61.191 to read as follows: **"Subpart J - Suspensions"**.
92. Revise Section 61.191 to read as follows:

**§ 61.191 Carrier to file supplement when notified of suspension.**

If a carrier is notified by the Commission that its tariff publication has been suspended, the carrier must file, within five business days from the release date of the suspension order, a consecutively numbered supplement without an effective date, which specifies the schedules which have been suspended.

**PROPOSED REVISIONS TO PART 63**

93. Revise Section 63.10(c)(1) to read as follows:

**§ 63.10 Regulatory classification of U.S. international carriers.**

\* \* \*

(c) \* \* \*

- (1) File international service tariffs pursuant to Section 61.28 of this Chapter.

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**PROPOSED REVISIONS TO PART 69**

94. Revise Section 69.2 to remove and reserve paragraph (tt).

95. Revise Section 69.3 to read as follows:

**§ 69.3 Filing of access service tariffs.**

(a) Except as provided in paragraphs (g) and (h) of this section, a tariff for access service shall be filed with this Commission for a two-year period. Such tariffs shall be filed with a scheduled effective date of July 1. Such tariff filings shall be limited to rate level changes.

\* \* \*

(e) A telephone company or group of telephone companies may file a tariff that is not an association tariff. Such a tariff may cross-reference the association tariff for some access elements and include separately computed charges of such company or companies for other elements. Any such tariff must comply with the requirements hereinafter provided:

\* \* \*

(6) A telephone company or companies that elect to file such a tariff shall notify the association not later than December 31 of the preceding year, if such company or companies did not file such a tariff in the preceding biennial period or cross-reference association charges in such preceding period that will be cross-referenced in the new tariff. A telephone company or companies that elect to file such a tariff not in the biennial period shall file its tariff to become effective July 1 for a period of one year. Thereafter, such telephone company or companies must file its tariff pursuant to paragraphs (f)(1) or (f)(2) of this Section.

(f) (1) A tariff for access service provided by a telephone company that is required to file an access tariff pursuant to § 61.38 of this Chapter shall be filed for a biennial period and with a scheduled effective date of July 1 of any even numbered year.

(2) A tariff for access service provided by a telephone company that may file an access tariff pursuant to § 61.39 of this Chapter shall be filed for a biennial period and with a scheduled effective date of July 1 of any odd numbered year. Any such telephone company that does not elect to file an access tariff pursuant to the § 61.39 procedures, and does not participate in the Association tariff, and does not elect to become subject to price cap regulation, must file an access tariff pursuant to § 61.38 for a biennial period and with a scheduled effective date of July 1 of any even numbered year.

(3) For purposes of computing charges for access elements other than Common Line elements to be effective on July 1 of any even-numbered year, the association may compute rate changes

based upon statistical methods which represent a reasonable equivalent to the cost support information otherwise required under Part 61 of this chapter.

\* \* \*

(h) Local exchange carriers subject to price cap regulation as that term is defined in § 61.3(x) of this chapter, shall file with this Commission a price cap tariff for access service for an annual period. Such tariffs shall be filed to meet the notice requirements of Section 61.58 of this Chapter, with a scheduled effective date of July 1. Such tariff filings shall be limited to changes in the Price Cap Indexes, rate level changes (with corresponding adjustments to the affected Actual Price Indexes and Service Band Indexes), and the incorporation of new services into the affected indexes as required by § 61.49 of this chapter.

(i) The following rules apply to the withdrawal from Association tariffs under the provision of paragraph (e)(6) or (e)(9) of this section or both by telephone companies electing to file price cap tariffs pursuant to paragraph (h) of this section.

\* \* \*

(j) [deleted]

96. Revise Section 69.111(g)(4) to replace the terms "§ 61.43(e)(2)(v)" and "§ 61.43(e)(2)(vi)" with "§ 61.42(e)(2)(v)" and "§ 61.42(e)(2)(vi)", respectively.
97. Revise Section 69.113(c) to replace the term "§ 61.3(v)" with "§ 61.3(x)".
98. Revise Section 69.114(a) to replace the term "§ 61.3(v)" with "§ 61.3(x)".

**Separate Statement of Commissioner Harold W. Furchtgott-Roth****In re: Notice of Proposed Rulemaking****1998 Biennial Regulatory Review -- Part 61 of the Commission's Rules and Related Tariffing Requirements**

I support adoption of this Notice of Proposed Rulemaking. In my view, any reduction of unnecessary regulatory burdens is beneficial. To that extent, this item is good and I am all for it. This item should not, however, be mistaken for complete compliance with Section 11 of the Communications Act.

As I have explained previously, the FCC is not planning to "review all regulations issued under this Act . . . that apply to the operations or activities of any provider of telecommunications service," as required under Subsection 11(a) in 1998 (emphasis added). *See generally 1998 Biennial Regulatory Review -- Review of Computer III and ONA Safeguards and Requirements*, 13 FCC Rcd 6040 (released Jan. 30, 1998). Nor has the Commission issued general principles to guide our "public interest" analysis and decision-making process across the wide range of FCC regulations.

In one important respect, however, the FCC's current efforts are more ambitious and difficult than I believe are required by the Communications Act. Subsection 11(a) -- "Biennial Review" -- requires only that the Commission "determine whether any such regulation is no longer necessary in the public interest" (emphasis added). It is pursuant to Subsection 11(b) -- "Effect of Determination" -- that regulations determined to be no longer in the public interest must be repealed or modified. Thus, the repeal or modification of our rules, which requires notice and comment rule making proceedings, need not be accomplished during the year of the biennial review. Yet the Commission plans to complete roughly thirty such proceedings this year.

I encourage parties to participate in these thirty rule making proceedings. I also suggest that parties submit to the Commission -- either informally or as a formal filing -- specific suggestions of rules we might determine this year to be no longer necessary in the public interest as well as ideas for a thorough review of all our rules pursuant to Subsection 11(a).

\* \* \* \* \*